

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES OF AMERICA

v.

RALPH T. O'NEAL

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**No. 3:08-CR-107
(Phillips)**

MEMORANDUM AND ORDER

On May 13, 2009, the Honorable H. Bruce Guyton, United States Magistrate Judge, filed a 2-page Report and Recommendation (R&R) [Doc. 138] in which he recommended that defendant's motions to dismiss [Docs. 130, 134] be denied as untimely.

This matter is presently before the court on defendant's timely objections to the R&R [Docs. 174, 182]. As required by 28 U.S.C. § 636(b)(1), the court has now undertaken a *de novo* review of those portions of the R&R to which defendant objects. The court finds itself in agreement with Judge Guyton's conclusion that defendant's motions to dismiss are untimely. Consequently, defendant's objections will be overruled, the R&R will be accepted in whole, and the underlying motions to dismiss will be denied.

Defendant avers that his trial will be prejudiced if he is not able to file motions prior to trial.

The motion deadline in this case was originally August 4, 2008. This deadline was extended to October 10, 2008, and it was again extended to February 18, 2009. Thus, the court finds that defendant has been afforded ample opportunity to file any motions he deems necessary to his defense. Moreover, the defendant has not shown good cause why the motion deadline should be extended a fourth time. Accordingly, the court agrees with Magistrate Judge Guyton that defendant's motions to dismiss filed after the February 18, 2009 deadline are untimely.

For the foregoing reasons, as well as the reasons articulated by Judge Guyton in his R&R, defendant's objections to the R&R [Docs. 174, 182] are hereby **OVERRULED** in their entirety whereby the R&R [Doc. 138] is **ACCEPTED IN WHOLE**. Accordingly, defendant's motions to dismiss [Docs. 130, 134] are **DENIED** in their entirety.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge